IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.51 OF 2006

Sau Venubai Jayaram Ufade ...Appellant
Vs.
Sau Bhagirathibai Ghadge & Ors. ...Respondents

Mr Vishwanath Talkute alongwith Mr Sachin Kadam for the Appellant.
Mr Ajay Misar for the Respondent No.1.

CORAM : A. S. OKA, J.
DATE : MARCH 07, 2006.

P.C.:

1. Heard Shri Talkute appearing for the Appellant/ Defendant No.1. He submitted that there were number of suspicious circumstances connected with execution of the Will on the basis of which the case of the Respondent No.1-original plaintiff is founded. He submitted that the testator was not in a position to execute the Will as he was admittedly bed-ridden. He pointed out that the stamp paper on which alleged Will is executed has been purchased in the name of the son of a beneficiary. He submitted that the Will was produced from custody of a witness who was examined in the earlier Revenue Proceedings between the parties and in the Revenue Proceedings he did not produce the Will. He pointed out that on certain documents on record, the signature of the testator appears to be different from the signature appearing on the Will. He submitted that it was for the Respondent No.1 to establish that there were no suspicious circumstances

and the Respondent No.1 has failed to discharge the burden.

2. Perusal of the Judgment of the Appellate Court shows that the entire documentary and oral evidence has been considered and appreciated by the Appellate Court. The Appellate Court has noted that though the testator was bed-ridden on 17th May, 1974 when he executed the Will, he died on 20th May, 1984. The Appellate Court has also referred to the evidence of the attesting witnesses. The perusal of the Judgment of the Appellate Court shows that no submission was made on the basis of certain alleged admitted signatures of the testator that alleged signature of the testator on the Will was different from the admitted signatures. Perusal of the notes of the evidence shows that none of the witnesses were confronted with the alleged admitted signatures of testator on the documents. The Appellate Court has recorded a finding that the Will was duly executed by the testator and the execution of Will has been proved in accordance with law. The findings of the Appellate Court are based on oral and documentary evidence on record. After having perused the relevant notes of evidence it is difficult to come to conclusion that the findings are perverse. No substantial question of law arises. Second Appeal is dismissed with no orders

as to costs.

JUDGE